

14 FEB 1969

Mr. J. F. C. Hyde, Jr.
Office of Assistant Director
for Legislative Reference
Bureau of the Budget
Washington, D.C. 20503

Dear Mr. Hyde:

This is in response to your request of 16 January 1969 for the views of this Agency on the Department of Defense draft bill "To repeal sec. 5532 of title 5, USC, relating to reductions in the retired or retirement pay of retired officers of regular components of the uniformed services who are employed in civilian offices or positions in the Government of the United States or the District of Columbia."

The Central Intelligence Agency has no objection to the proposed repeal of 5 U.S.C. 5532.

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25X1A *Sincerely,*

John M. Maury
Legislative Counsel

OSD Review Completed

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OLC/LLM:kef (14 February 1969)

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DD/S 69-0593

STATSPEC

MEMORANDUM FOR: Support Operations Staff/DDS

ATTENTION :

SUBJECT : Proposed Legislation to Repeal Section 5532 of Title 5,
United States Code

1. You have asked for my comments on the attached draft bill.

2. It would appear that regular officer retirees of the military services do suffer inequities as compared with enlisted and reserve retirees of those services. In many pursuits of great importance to the nation, former members of the military services work at all levels with civilian employees of the Federal Government. It does not appear appropriate or useful to maintain major distinctions in the basic entitlements of those who are involved in these efforts.

3. I believe the Agency should support the subject proposed legislation, but it seems to me that this is only a piece of the problem. There is the additional question of equity between the military and the civil service. The rehired civil service annuitant forfeits, in terms of total income under offset arrangements, all of his retirement pay. The proposed legislation would, therefore, serve to widen disparities already existant. The Agency should also act when possible to support legislation which would remove inequities between the entitlements of military and civilian retirees.

[Redacted]
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Robert S. Wattles
Director of Personnel

Att

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GROUP 1
Excluded from automatic
downgrading and
declassification

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EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

JAN 16 1969

LEGISLATIVE BRIEFING MEMORANDUM

TO: Legislative Liaison Officer

Central Service Commission
Joint Chiefs of Staff
National Accounting Office
Postmaster and Telecommunication
National Personnel and Science Administration
Ministries of Health, Education, and Welfare
Department of Commerce
Central Intelligence Agency

SUBJECT: Defense draft bill, "to repeal section 5502 of title 5, U.S. relating to reductions in the uniformed or regular pay of regular officers or warrant officers of the uniformed services who are employed in civilian offices or positions in the government of the United States or the District of Columbia." (DOD 91-60)

The Bureau of the Budget would appreciate receiving comments and your agency on this subject before advising on its transmission to the Secretary of the President. In order to facilitate coordination, coordination and clearance in accordance with Circular 1-1B, it is requested that your reply be made within one week.

Comments should be referred to Mr. D. R. Parry, Bureau of the Budget, code 103, ext. 4760.


D. R. Parry
Assistant Director for
Legislative Reference

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DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D. C. 20301

January 9, 1969

Memorandum for Mr. Wilfred H. Rommel
Assistant Director, Legislative Reference
Bureau of the Budget
Washington, D. C. 20503

SUBJECT: DOD 91-50, Proposed legislation "To repeal section 5532 of title 5, United States Code, relating to reductions in the retired or retirement pay of retired officers of regular components of the uniformed services who are employed in civilian offices or positions in the government of the United States or the District of Columbia."

The attached legislative proposal has been included in the Department of Defense Legislative Program for the 91st Congress.

Related bills pending in the Committee on Post Office and Civil Service are H.R. 281 and H.R. 1158. The proposal is also consistent with the Department of Defense report on H.R. 8957, 90th Congress which was transmitted to the Bureau of the Budget for clearance by letter dated January 15, 1968.

Advice is requested as to the relationship of the proposal to the Administration's program.

A handwritten signature in black ink, appearing to read "Frank J. Sherlock".
Frank J. Sherlock
Director
Legislative Reference Service

Enclosure



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D.C. 20301

Honorable John W. McCormack
Speaker of the House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

There is forwarded herewith draft legislation "To repeal section 5532 of title 5, United States Code, relating to reductions in the retired or retirement pay of retired officers of regular components of the uniformed services who are employed in civilian offices or positions in the government of the United States or the District of Columbia."

This proposal is a part of the Department of Defense Legislative Program for the 91st Congress. The Bureau of the Budget advises that from the standpoint of the Administration's Program, there is no objection to the presentation of this proposal for the consideration of this Congress.

This proposed legislation would authorize retired officers of the Regular components of the uniformed services who accept appointments in the Federal or District of Columbia civilian service to receive all of their military retired pay during their tenure as Federal employees, rather than a reduced amount as is now required by section 5532, title 5, United States Code. Under that section, and based on the increases in retired pay, by reason of increases in the Consumer Price Index under the formula set forth in 10 USC 1401a, a retired Regular officer while in such civilian employment, may receive the first \$2241.09 of his retired pay plus 50% of any amount in excess of \$2241.09. Whenever retired pay is increased under 10 USC 1401a, (based on increases in the Consumer Price Index), the basic amount of the exemption from the compensation restriction namely, \$2241.09 will be increased by a like percentage.

Reserve officers and enlisted men who retired for disability or on completion of 20 or more years of active Federal military service are not similarly restricted.

Disparities of this sort in the treatment of like categories of Federal personnel were a subject of concern to the Cabinet Committee on Federal Staff Retirement System convened by the President on February 1, 1965, and under the chairmanship of the Director, Bureau of the Budget, with membership composed of the Secretaries of State, Defense, Labor, and Health, Education and Welfare, the Postmaster General, and the Chairman of the Civil Service Commission. The Cabinet Committee's 1966 Report (see House Document 402, 89th Congress, 2nd Session, dated March 7, 1966) emphasized the importance of "consistency of treatment among categories of employees." In treating briefly with the issue of consistency and equity the Committee: (a) noted the major distinctions between various Federal benefit systems; (b) made particular reference to the fact that the military system "requires its regular officers, but not its reserves or enlisted personnel to forfeit a portion of their retirement pay (but not their salary) if they accept civilian employment in the Federal service, but not if they work for other employers"; and (c) emphasized that "such difference importantly affects efforts to assure uniformity and equity in treatment of various categories of workers."

The appendix to the Cabinet Committee's Report (Senate Document No. 14, 90th Congress, 1st Session) which included a series of detailed analyses and background papers prepared by the staff of the Cabinet Committee states:

"In any case, the Dual Compensation Act as it applies to retired members of the Uniformed Services now permit all such retirees to retain their retired pay in addition to the salary of their Federal civilian position, except in the case of Regular officers subject to the retired pay limitations discussed above. It is difficult to reconcile the discriminatory treatment of the retired Regular officer vis-a-vis the retired Reserve officer or enlisted member. There does not appear to be any logical reason why the retired Regular officer should forfeit part of his retired pay in order to work in a civilian capacity for the Government while other military retirees, retired under the same conditions, do not suffer such penalty. We firmly believe that all military retirees should be treated alike when employed in Federal civilian capacities."

It is the view of the Department of Defense that when circumstances of military service and retirement are the same, treatment in matters such as limitations on retired pay should also be the same. In this connection, it is pointed out that the proposal of the Civil Service

Commission which culminated in the enactment of the Dual Compensation Act of 1964 did not differentiate between Regular and Reserve officers. Under the Executive Department proposal, all retired military personnel whose condition of service and retirement were the same would have been subject to similar restriction in the amount of retired pay which they could receive. However, the Congress elected to exempt from the compensation restriction all enlisted members and Reserve officers.

In the light of the Congressional action to exempt Reserve officers and all enlisted men from the restrictions on receipt of retired pay when employed by the Federal government, logic and equity dictate similar treatment of Regular officers. The inconsistency and inequity of the existing restriction are particularly apparent in terms of the following statistics:

- As of June 30, 1968 there were approximately 643,000 retired military members on the retired rolls.
- About 86.5% were enlisted members or Reserve officers and these individuals are not subject to the compensation limitations prescribed by 5 USC 5532.
- Only the remaining 13.5% are Regular officers and therefore subject to the compensation restriction unless exempted because of combat-incurred disability.

For the reasons set forth above, the Department of Defense strongly urges enactment of the enclosed proposed legislation which by repealing 5 USC 5532 and thereby removing the compensation restriction on Regular Officers will result in equal treatment of all retired military personnel in this matter.

Enactment of the proposed legislation will result in an increase of approximately \$5 million in the funds required for military retired pay in FY 1970 which is the estimated amount by which the retired pay of Regular officers employed by the Federal government would be reduced in that year. No provision has been made in the FY 1970 Budget for this increase.

Sincerely,

Enclosure

A B I L L

To repeal section 5532 of title 5, United States Code, relating to reductions in the retired or retirement pay of retired officers of regular components of the uniformed services who are employed in civilian offices or positions in the Government of the United States or the District of Columbia.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled, That
3 chapter 55 of title 5, United States Code, is amended as
4 follows:
5 (1) Section 5532 is repealed.
6 (2) The analysis is amended by striking out the
7 item relating to section 5532.
8 (3) Section 5531 is amended by striking out "sections
9 5532 and" and inserting in place thereof "section".

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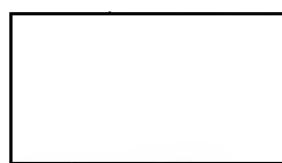
OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Legislative Counsel 7D35 Hqs.		
2			
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ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

We are attaching hereto the comments of the Director of Personnel with respect to a draft bill to repeal Section 5532 of Title 5 relating to dual compensation for regular officers.

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
Support Operations Staff/DDS UNCLASSIFIED	6 Feb 69 CONFIDENTIAL SECRET

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2	Assistant Legislative Counsel 7 D 43 Hqs		
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ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

I think the DOD proposal to repeal section 5532 of Title 5, USC, is probably a good idea. On the other hand, I do not feel that the Agency appropriately should comment on this to the Bureau of the Budget since it is really not in our jurisdiction. I do believe it raises a question of whether or not we should seek similar legislation for CIA retirees so long as Ruddock's position holds that such retirees cannot be re-employed under Civil Service Retirement and tack on CIA service.

John S. Warner

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
Deputy General Counsel 7D01	1/28/69
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APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

Attached is a request from the Bureau of the Budget asking for CIA comments on a draft bill to repeal section 5532 of title 5 relating to dual compensation for regular officers. May we have your comments and recommendations concerning an Agency position with respect to this draft bill by 6 February 1969.

25X1A

cc: OGC for [redacted]
info Assistant Legislative Counsel

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
OLC 7D35 [redacted]	24 Jan 69
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